

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX REFERENCE NO. 321 of 1999

Bajaj Auto Ltd. ... Applicant.

vs.

The Commissioner of Income Tax ... Respondent

Ms. V. B. Patel, for Applicant.
Mr. Ashok Kotangale, Sr. Counsel
with Mr. D.A. Dubey for Respondent.

CORAM: V. C. DAGA

AND

A. S. AGUIAR JJ.

Date: August 5, 2005.

P. C. :

1. By this reference under section 256(1) of the Income-tax Act the Tribunal has referred the following question of law for opinion at the instance of the Revenue:

Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in holding that guarantee commission paid to banks on import of capital goods was to be regarded as capital expenditure?

2. Counsel for both the sides fairly agree that the above question is covered by the judgment of this court in the case of **Kinetic Engineering Ltd. Vs. Commissioner of Income Tax**, reported in

[1998] 233 ITR 762.

3. In this view of the matter the above questions is answered in the negative, i.e. in favour of the assessee and against the Revenue. Reference stands disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)